IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5407 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

DIVISIONAL CONTROLLER

Versus

BAHADURSINH SHIVABHAI JADEJA

Appearance:

MR MN DEVNANI for Petitioner

MR DM THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/08/2001

ORAL JUDGEMENT

#. The petitioner-Corporation has challenged the award passed by the Industrial Tribunal, Rajkot in Reference I.T.R.No.190/84. On behalf of the respondent-union, industrial dispute was raised for the purpose of giving regular time scale to the concerned employee-Bahadursinh

Shivabhai Jadeja who was serving, at the relevant time, as watchman. It is the case of the union that the said employee was serving as watchman since 13.10.1972 and as per the settlement entered into between the union and the management, an employee who has completed 180 days is required to be given regular time scale. It is the case of the union that the aforesaid employee has completed 180 days on 13.6.1973. It is not in dispute that the benefit of regular time scale is to be given on completion of 180 days by the concerned employee. For getting the aforesaid benefit, therefore, industrial dispute was raised.

#. The Industrial Tribunal, after considering the arguments of both the sides and the evidence on record, came to the conclusion that the concerned workman has completed 180 days on 1.7.1973 and therefore, he is entitled to the regular time scale from 1.7.1973 and accordingly it was ordered to pay the amount as per the time scale to the concerned workman. The aforesaid award is challenged in this petition.

#. It is argued by Mr.Devnani, learned advocate for the petitioner that the respondent-workman has been given the said benefit by the Corporation from December, 1975 as the said benefit is given on the basis of the seniority list. It is also argued by Mr.Devnani that the respondent-workman was not regularly selected, and therefore, the said benefit was given to him from December, 1975. I do not find any substance in any of these arguments, firstly, because it is not in dispute and Mr.Devnani fairly agreed that as per the settlement, an employee who has completed 180 days, is required to be given the time scale from that date. It is not in dispute that the petitioner has completed 180 days on 1.7.1973, and therefore, the Industrial Tribunal has rightly given the said benefit in favour of the concerned workman with effect from 1.7.1973. Mr.Devnani, however, argued that since the respondent-workman was not regularly selected, he was not entitled to the benefit of regular time scale from 1.7.1973. However, I do not find any substance in the said argument because as per the settlement, an employee who has completed 180 days, is entitled to regular time scale from that date and in that view of the matter, if the respondent-workman has been given the said benefit by the Industrial Tribunal, it cannot be said that the Industrial Tribunal has committed any error of law or of jurisdiction which is required to be corrected in a petition which is in the nature of a petition under Article 227 of the Constitution of India, and therefore, I do not find any substance in this

petition and or any infirmity in the award of the Industrial Tribunal. Therefore, the petition is devoid of any merits and deserves to be dismissed. Accordingly, the petition stands dismissed. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated.

(P.B.Majmudar,J)
(pathan)